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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,004	10/29/2003	Brian R. Foucher	M0407-00005	7093
33222	7590	01/09/2007	EXAMINER	
JONES, WALKER, WAECHTER, POITEVENT, CARRERE & DENEGRE, L.L.P. 5TH FLOOR, FOUR UNITED PLAZA 8555 UNITED PLAZA BOULEVARD BATON ROUGE, LA 70809			KATCHEVES, BASIL S	
			ART UNIT	PAPER NUMBER
			3635	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/09/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/696,004	FOUCHER, BRIAN R.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Basil Katcheves	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 29 October 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: ____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>5/22/06, 7/5/05, 10/29/03</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: ____

## DETAILED ACTION

### *Drawings*

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the crane, as claimed, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitations of "expensive" and of the "costs" are vague and unclear. Correction is required. The claim has been examined as best understood.

Claim 1 recites the limitation "the building frame assemblage" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 15 recites the limitation "the assemblages" in line 3. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-4 and 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,920,920 to Couse et al.**

Regarding claims 1, 6, 9, Couse discloses a transportable, folded building inside a shipping container (configuration shown in fig. 1), the building frame assemblage foldable laterally and vertically, and designed to be removed vertically (fig. 6) from the container and lowered (fig. 8) upon a construction site. The building structure also contains a floor (fig. 8).

Regarding claim 2, Couse discloses the building as designed to have separate assemblage components (fig. 1: see various components) in a shipping container and the parts removed and constructed on site.

Regarding claims 3, 4, Couse discloses the removed parts as being assembled and placed in their position as they are removed from the container and placed upon a permanent site.

Regarding claim 7, Couse discloses the use of a floor (fig. 8).

Regarding claim 8, Couse discloses the structure as secured to the site.

**Claims 15-20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,545,171 to Colvin.**

Regarding claim 15, Colvin discloses a prefabricated building which is shippable in a container (fig. 1) and having assemblages which are removed from the container in an order in which they are removed and used in the construction of a building.

Regarding claims 16, 20 Colvin discloses the assemblage as collapsible laterally.

Regarding claim 17, Colvin discloses the assemblage as being cantilevered (fig. 6: see cantilevered 81 & 82).

Regarding claims 18, 19, Colvin discloses the use of a second unit as a second floor (column 4, lines 20-40).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,920,920 to Couse et al.**

Regarding claim 5, Couse does not disclose the use of a second unit. It would have been obvious to one having ordinary skill in the art at the time the invention was

made to use a second unit, since it has been held that a mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. V. Bemis Co.*, 193 USPQ 8. This would be obvious to house a larger number of people than one structure has the capacity to hold.

Regarding claim 10, Couse does not specifically mention the building costs associated with construction of the mobile unit. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to build the unit in an area of lower costs and then sell the unit for a higher cost, since the sale of buildings for a profit is a common practice in the art of construction and in general, economics.

**Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,920,920 to Couse et al. in view of U.S. Patent No. 5,265,394 to Gardner.**

Regarding claims 11,12, 14, Couse discloses a transportable, folded building inside a shipping container (configuration shown in fig. 1), the building frame assemblage foldable laterally and vertically, and designed to be removed vertically (fig. 6) from the container and lowered (fig. 8) upon a construction site. The building structure also contains a floor (fig. 8). But does not disclose the use of a crane to remove the frame. Gardner discloses a similar expandable structure and discloses the use of a crane (column 1, lines 19-21). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a crane for deploying the structure in situations where the personnel deploying the structure are in need of

additional help due to weight and size of the structure. The order in the steps of placement and assembly would be an obvious design choice due to the efficiency with which a particular order would increase assembly speed.

Claim 13 is rejected for reasons cited in the rejections of claims 11 and 12. In addition, Couse discloses platforms (fig. 8: 18, 36, 37) which the structure is placed upon and lowered to the foundation.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited patents listed on the included form PTO-892 further show the state of the art with respect to portable buildings in general.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack, can be reached at (571) 272-6848.

  
Basil Katcheves

BK

12/28/06

Examiner AU 3635